

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-185

October 5, 2001

MAINE PUBLIC UTILITIES COMMISSION
Investigation of Retail Electric Transmission
Services and Jurisdictional Issue

ORDER APPROVING
STIPULATION
(BHE)

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order we approve a Stipulation submitted to us by Bangor Hydro-Electric Company (BHE or Company) and the Office of the Public Advocate (OPA). This Stipulation resolves all Maine jurisdictional issues resulting from the filing of the Company's new transmission rates at the Federal Energy Regulatory Commission (FERC). By approving this Stipulation, we authorize BHE to continue to amortize the Asset Sale Gain Account (ASGA) to offset increases in FERC transmission rates from the transmission component separated from overall T&D rates in our Order Approving Stipulation issued on August 11, 2000 in this Docket.

II. BACKGROUND

On August 11, 2000, the Commission issued an Order Approving Stipulation in this docket which separated BHE's overall T&D requirement of \$103,186,698 established by the Commission in *Public Utilities Commission, Investigation of Stranded Cost Transmission and Distribution Utility Revenue Requirement and Rate Design of Bangor Hydro-Electric Company (Phase II)*, Docket No. 97-596, Order (Feb. 29, 2000) into a transmission component of \$11,356,276 and a distribution component of \$91,830,422. As the Company's FERC-filed transmission rates scheduled to take effect June 1, 2000 were higher than this cost separated transmission revenue requirement, we authorized the Company to adjust the amortization of its Asset Sale Gain Account by \$2,444,758 in order to reduce the Company's distribution rates by an offsetting amount and thus keep the overall level of rates that customer's paid stable. As part of the Stipulation, the parties agreed:

That subsequent to the filing of the Company's 2000 FERC Form 1, scheduled to be filed March 31, 2001, the Company shall file with the Commission an estimate of its retail transmission rates for the period June 1, 2001 through May 31, 2002, together with any proposed revisions to its retail distribution rate schedules to be effective June 1, 2001. Such filing shall include a Company proposal regarding the continuation, modification or elimination of the accelerated

amortization contemplated by this paragraph. Subsequent to filing, the Company agrees to work with the parties to develop an appropriate approach that considers rate stability and other legitimate rate design and ratemaking concerns.

On May 14, 2001, the Company submitted a filing in compliance with this provision of the Stipulation which proposed to continue to utilize the ASGA to offset any increase resulting from the difference in the cost-separated transmission amount and the FERC jurisdictional transmission rate. Since the Company was expecting the FERC's jurisdictional rate to drop from last year's levels, the Company recommended that the amortization be reduced by a similar amount. In a filing of June 5, 2001, the Company calculated the ASGA amount needed to achieve stable transmission rates to be \$1,534,095 or \$910,663 less than last year's amortization.

III. DESCRIPTION OF THE STIPULATION

On September 20, 2001, we received a Stipulation entered into between the Company and the OPA which agreed to adjust the incremental ASGA amortization to \$1,592,112 annually to ensure that overall transmission and distribution rates remained stable. The Stipulation also provides that the Company would not collect, at this time, a transmission rate surcharge of \$450,000 that it is otherwise entitled to under last year's FERC rate settlement agreement. Instead, the Company agreed to defer implementation of recovery of this amount until June 1, 2002, with the Company accruing carrying costs in accordance with FERC-established policies.

The parties to the Stipulation further agreed that subsequent to the filing of the Company's 2001 FERC Form 1, the Company shall file an estimate of its retail transmission rates for the period June 1, 2002 through May 31, 2003, along with any proposed revisions to its retail distribution rate schedules to take effect June 1, 2002. Absent an agreement and/or Commission order to continue an incremental amortization of the ASGA, the Company would file amended distribution rate schedules to reflect the termination of such incremental amortization of the ASGA.

Finally, the parties to the Stipulation agree that since the incremental use of the ASGA to offset transmission price increases may benefit some rate classes more than others, that the Commission may consider the relative benefit of such utilization of the ASGA in future stranded cost rate setting proceedings.

IV. DECISION

As stated in past cases, in deciding whether to approve a stipulation we apply the following criteria:

1. whether the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement; and

2. whether the process that led to the stipulation was fair to all parties; and
3. whether the stipulated result is reasonable and is not contrary to legislative mandate.

See *Central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me. P.U.C.) Jan. 10, 1995, and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We find that the proposed Stipulation in this case meets all of the above criteria.

The Stipulation before us was entered into by the Company and the OPA after numerous technical and settlement conferences. The Industrial Energy Consumers Group, the only other active party to this matter, had a full opportunity to participate in these conferences and does not object to the Stipulation. We, therefore, find that both criteria 1 and 2, set forth above, have been satisfied.

We also find that the stipulated result is reasonable and is both consistent with the public interest and legislative mandates. By continuing the incremental amortization of the Asset Sale Gain Account, but at a decreased level from the amount set in our August 11, 2000 Order in this Docket, the Stipulation both achieves rate stability and also preserves the ASGA for future use in stranded cost rate setting. We find this result to be consistent with our prior orders in this docket and in Docket No. 97-596.

Accordingly, it is

ORDERED

1. That the Stipulation entered between Bangor Hydro-Electric Company and the Office of the Public Advocate and submitted to the Commission on September 20, 2001, attached hereto, is approved;
3. That BHE is authorized, during the period of June 1, 2001 through May 31, 2002, to amortize its Asset Sale Gain Account in a manner which avoids an overall rate increase as a result of the difference in FERC transmission rates and the transmission revenue requirement separated from the overall revenue requirement established in Docket No. 97-596.

Dated at Augusta, Maine, this 5th day of October, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.